

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2350	Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership
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TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

- a) Member entering the group from a separate return year. IITA Section 207 provides that the amount of Illinois net loss that is available as a carryback or carryover is determined after applying the allocation and apportionment provisions of Article 3. That Section does not limit the amount of Illinois net loss that may be carried into a given year. As a consequence, no such limitation shall apply.

1) Example 1:

- A) In 1986, Corporation A was not a member of a unitary business, and it reported a \$170 Illinois net loss on a separate return. The loss could not be carried back. Also in 1986, Corporation B and Corporation C constituted a unitary business group, and they reported Illinois net income. On January 1, 1987, B purchased the stock of A, and due to their operations A became part of the unitary business group with B and C. The following facts apply for 1987:

	<u>Corp. A</u>	<u>Corp. B</u>	<u>Corp. C</u>	<u>Combined</u>	
Base income				1,000	
Business income				1,000	
Apportion-		10%	15%	25%	50%
ment percentage					
Apportion-	100	150	250	500	
ment income					
Illinois net (170)	---	---	---	(170)	
loss deduction					
Illinois net ---	---	150	250	330	
income					
Loss (70)					
carryover					

- B) If A, B, and C file separate returns using the combined apportionment method, A's \$170 Illinois net loss deduction will be applied against A's

income for that year, and A will have a \$70 Illinois net loss carryover to 1988. B and C will report \$150 and \$250 of Illinois net income, respectively. If A, B, and C file a combined return, A's \$170 Illinois net loss deduction will be applied against the group's combined income, and the combined group will report \$330 of combined Illinois net income.

2) Example 2:

- A) Same facts as Example 1 except that in 1986 A reported Illinois net income instead of an Illinois net loss, and B and C reported Illinois net losses of \$200 and \$400, respectively, which could not be carried back. Consequently, the following facts apply for 1987:

	<u>Corp. A</u>	<u>Corp. B</u>	<u>Corp. C</u>	<u>Combined</u>
Base income				1,000
Business income				1,000
Apportionment percentage	10%	15%	25%	50%
Apportioned income	100	150	250	500
Net loss deduction	---	(200)	(400)	(600)
Illinois net income (loss)	100	(50)	(150)	(100)

- B) If A, B and C file separate returns in 1987, A will report \$100 of Illinois net income, and B and C will have Illinois net losses of \$50 and \$150, respectively. If A, B and C file a combined return in 1987, the group will have a combined net loss of \$100.
- b) Member leaving the group during a separate or combined return year. If a corporation ceases to be a member of a unitary business group during the year, regardless of whether it filed a separate or combined return, the amount of net loss attributable to that member for that portion of the tax year prior to leaving shall be determined in accordance with Section 100.5270(f)(2) of this Part.
- c) Carryover and Carryback of Combined Net Losses to Separate Return Years
- 1) This subsection applies to unitary members that have made an election to file a combined return under IITA Section 502(f). If a combined Illinois net loss (as defined in Section 100.5270(b)(3) of this Part) can be carried under the principles of Section 172(b) to a separate return year of a corporation (or could have been so carried if such corporation were in existence) which was a member of a unitary business group in the year in which such loss arose, then the portion of such combined Illinois net loss attributable to such corporation (as determined under subsection (c)(3) below) shall be assigned to such corporation and shall be an Illinois net loss carryover or carryback to such separate return year; accordingly, such portion shall not be included in the combined Illinois net loss carryovers or carrybacks to the equivalent combined return year. Thus, for example, if a member filed a separate return for the third year preceding a

combined return year in which a combined Illinois net loss was sustained and if any portion of such loss is assigned to such member for such separate return year, such portion may not be carried back by the group to its third year preceding such combined return year.

- 2) Nonassignment to certain members not in existence. Notwithstanding subsection (c)(1), the portion of a combined Illinois net loss attributable to a member shall not be assigned to a prior separate return year for which such member was not in existence and shall be included in the combined Illinois net loss carrybacks to the equivalent combined return year of the group (or, if such equivalent year is a separate return year, then to such separate return year), provided that such member was a member of the unitary business group immediately after its organization.
- 3) Portion of combined Illinois net loss attributable to a member. The portion of a combined Illinois net loss attributable to a member of a group is an amount equal to the combined Illinois net loss of the group multiplied by a fraction, the numerator of which is what would have been the separate Illinois net loss of such corporation had a combined return not been filed, and the denominator of which is the sum of what would have been the separate Illinois net losses of all members of the group in such year having such losses. The separate Illinois net loss of a member of the group shall be determined pursuant to Sections 100.2320 and 100.2340 above.
- 4) Examples. The provisions of this subsection (c) may be illustrated by the following examples:

A) Example 1:

- i) In 1986, Corporations A and B were not members of a unitary business group and each filed separate Illinois returns. Both A and B reported net income in 1986 and prior years. On January 1, 1987, B purchased all the stock of A, and due to their operations A became part of the unitary business group with B. In 1987 A and B file a combined return and the following facts apply:

	<u>Corp. A</u>	<u>Corp. B</u>	<u>Combined</u>
Base income			(200)
Business income			(200)
Apport. %	10%	20%	30%
Apport. income	(20)	(40)	(60)
Illinois Net Loss	(20)	(40)	(60)

- ii) The portion of the 1987 \$60 combined Illinois net loss which will be attributable to A and B will be as follows:

Corp. A	$60 \times 20/60 = 20$
Corp. B	$60 \times 40/60 = 40$

- iii) It should be noted that where a combined net loss such as in this Example results entirely from a unitary business loss (i.e. there are no nonbusiness or separate apportionment partnership items of income or loss), and where there are no prior year losses being carried over (compare to Example 2), then each member's portion of the combined net loss can also be calculated by multiplying the combined business loss by each member's separate apportionment percentage (i.e. based on each member's factors in Illinois as compared to the group's combined factors everywhere). This is illustrated by the following calculations:

Corp. A	$200 \times 10\% = 20$
Corp. B	$200 \times 20\% = 40$

B) Example 2:

- i) In 1986, Corporation A and Corporation B were not members of a unitary business group and each filed separate Illinois returns. A reported a \$100 Illinois net loss in 1986 and B reported net income. Corporation A's net loss could not be carried back because of losses in prior years. On January 1, 1987, B purchased all the stock of A, and due to their operations A became part of the unitary business group with B. In 1987 A and B file a combined return and the following facts apply:

	<u>Corp. A</u>	<u>Corp. B</u>	<u>Combined</u>
Base Income			200
Business Income			200
Apport. %	10%	20%	30%
Apport. Income	20	40	60
Illinois Net Loss			
Deduction	(100)		(100)
Illinois Net Income/ Loss	(80)	40	(40)

- ii) If A and B file separate returns in 1988, the portion of the 1987 \$40 combined Illinois net loss which will be attributable to A and B in 1988 will be as follows:

Corp. A	$40 \times 100/100 = 40$
Corp. B	$40 \times 0/100 = 0$

C) Example 3:

- i) Corporation P was formed on January 1, 1986. P filed a separate return for the calendar year 1986. On March 15, 1987, P formed Corporation S. P and S filed a combined return for 1987. On January 1, 1988, P purchased all the stock of Corporation T, which had been formed in 1987 and had filed a separate return for its taxable year ending December 31, 1987.

- ii) P, S, and T join in the filing of a combined return for 1988, which return reflects a combined Illinois net loss of \$11,000. \$2,000 of such combined net loss is attributable to P, \$3,000 to S, and \$6,000 to T. Such attribution of the combined net loss was made on the basis of the separate net losses of each member as determined under subsection (c)(3).
- iii) \$5,000 of the 1988 combined Illinois net loss can be carried back to P's separate return for 1986. Such amount is the portion of the combined net loss attributable to P and S. Even though S was not in existence in 1986, the portion attributable to S can be carried back to P's separate return year, since S (unlike T) was a member of the group immediately after its organization. The 1988 combined net loss can be carried back against the group's income in 1987 except to the extent (i.e., \$6,000) that it is apportioned to T for its 1987 separate return year and to the extent that it was absorbed in P's 1986 separate return year. The portion of the 1988 combined net loss attributable to T (\$6,000) is a net loss carryback to its 1987 separate return.

D) Example 4:

- i) Assume the same facts as in Example 3. Assume further that on June 15, 1989, P sells all the stock of T to an outsider, that P and S file a combined return for 1989 (which includes the income of T for the period January 1 through June 15), and that T files a separate return for the period June 16 through December 31, 1989.
- ii) The 1988 combined Illinois net loss, to the extent not absorbed in prior years, must first be carried to the short period ending June 15, 1989. Any portion of the \$6,000 amount attributable to T which is not absorbed in T's 1987 separate return year or in the short combined period ending June 15, 1989, shall then be carried to T's separate short return year ending December 31, 1989.

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